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## NATIONAL CREDIT UNION ADMINISTRATION

### **Agency Information Collection; Submission for OMB Review; Comment Request; Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies**

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Notice, request for comment, and notice of information collection to be submitted to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act of 1995 (PRA).

**SUMMARY:** The NCUA has submitted to OMB a request for approval under the PRA of the collection of information discussed below. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Interested persons are invited to submit written comments on the information collection to Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428; by fax to 703-837-2861; or by email to [OCIOpra@ncua.gov](mailto:OCIOpra@ncua.gov).

Additionally, commenters may send a copy of their comments to the OMB desk officer for the Agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building Room 10235, 725 17<sup>th</sup> Street NW., Washington, DC 20503; by fax to (202) 395-6974; or by email to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** For further information about the information collection discussed in this notice, please contact Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428; by fax to 703-837-2861; or by email to [OCIOFRA@ncua.gov](mailto:OCIOFRA@ncua.gov). In addition, background documentation for this information collection may be viewed at [www.reginfo.gov](http://www.reginfo.gov).

**SUPPLEMENTARY INFORMATION:** Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) required each Agency, including NCUA, to establish an Office of Minority and Women Inclusion (OMWI) to be responsible for all matters of the Agency relating to diversity in management, employment, and business activities. The Dodd-Frank Act also instructed the OMWI Directors to develop standards for assessing the diversity policies and practices of entities regulated by their Agencies. The Agencies worked together to develop joint standards and, on June 10, 2015, they published a **Federal Register** notice (80 FR 33016) entitled “Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies” (Policy Statement). The NCUA joined the Agencies in issuing the Policy Statement. The NCUA is issuing a separate Federal Register notice for PRA clearance using this notice. The Policy Statement contains a collection of information within the meaning of the PRA (44 U.S.C. 3501 et seq.).

## **A. Overview of the Collection of Information**

### **1. Description of the Collection of Information and Proposed Use**

The title for this proposed collection of information is:

- Joint Standards for Assessing Diversity Policies and Practices

The Policy Statement includes Joint Standards that cover “Practices to Promote Transparency of Organizational Diversity and Inclusion.” These standards contemplate that a

regulated entity is transparent about its diversity and inclusion activities by making certain information available to the public annually on its website or in other appropriate communications, in a manner reflective of the entity's size and other characteristics. The information noted in these standards is the entity's diversity and inclusion strategic plan; its policy on its commitment to diversity and inclusion; progress toward achieving diversity and inclusion in its workforce and procurement activities (which may include the entity's current workforce and supplier demographic profiles); and employment and procurement opportunities available at the entity that promote diversity.

In addition, the Policy Statement includes standards that address "Entities' Self-Assessment." These standards envision that the regulated entity conducts a voluntary self-assessment of its diversity policies and practices at least annually, provides information pertaining to this self-assessment to its primary federal financial regulator, and publishes information pertaining to its efforts with respect to the Joint Standards. The information provided to the Agencies will be used to monitor progress and trends among regulated entities with regard to diversity and inclusion in employment and contracting activities, as well as to identify and publicize leading diversity policies and practices. NCUA designed a proposed, draft "Voluntary, Sample Credit Union Self-Assessment Checklist," which federally insured credit unions would be able to use as a tool to perform their assessment and to submit this information to NCUA.

## **2. Description of Likely Respondents and Estimate of Annual Burden**

The collections of information contemplated by the Joint Standards will impose no new recordkeeping burdens as regulated entities will only publish or provide information pertaining to diversity policies and practices that they maintain during the normal course of business. The NCUA estimates that, on average, it will take a federally insured credit union approximately 12

burden hours annually to assess diversity and inclusion practices and publish information pertaining to its diversity policies and practices on its website or in other appropriate communications and to retrieve and submit information pertaining to its self-assessment to NCUA.

NCUA estimates the total burden for federally insured credit unions as follows:

Information Collection: Joint Standards for Assessing Diversity Policies and Practices

Estimated Number of Respondents: 367

Frequency of Collection: Annual

Average Response Time per Respondent: 12 hours

Estimated Total Annual Burden Hours: 4,404

Obligation to respond: Voluntary

## **B. Solicitation of Public Comments**

The Policy Statement included a 60-day notice requesting public comments on the collection of information. 80 Fed. Reg. 33016, 33021 (June 10, 2015). In addition, NCUA designed a draft proposed “Voluntary, Sample Credit Union Self-Assessment Checklist,” which federally insured credit unions would be able to use to perform their assessment and to submit information to NCUA. NCUA released the draft checklist with the Joint Standards, and the NCUA Letter to Credit Unions, No. 15-CU-05.

During the comment period, the Agencies collectively received four comment letters: two from industry trade associations, one from an advocacy organization, and one from an individual. Separately, the NCUA received a comment letter from an industry trade association. The Agencies considered this comment and have included it in the discussion of comments below. The comments addressed the collection of information under the “Entities Self-Assessment” Joint Standards. (As noted above, these Joint Standards envision that a

regulated entity provides self-assessment information to the OMWI Director of the entity's primary federal financial regulator.) The commenters also commented on aspects of the Policy Statement unrelated to the collection of information; these views are not relevant to this notice or the paperwork burden analysis and, accordingly, they are not addressed below.

After reviewing and considering the comments related to the collection of information, the Agencies have decided not to make any changes to the collection of information described in the 60-day notice.

### **1. Practical Utility of Information Collection**

Two commenters addressed whether the collection of information pertaining to self-assessments will have practical utility. One commenter asserted that it is premature to gauge how useful information will be without knowing precisely what information the Agencies will request. The other commenter maintained that the information collection request in the Policy Statement will yield large variations in the information submitted and predicted that the information received will have little practical utility. This commenter argued that the Agencies should standardize the information they request so they are able to assess accurately the state of diversity and inclusion across the industry. The commenter's view is that standardization of the data request would enhance the quality, utility, and clarity of the collected information.

Although the Agencies have not specified the content or format for the information collection described in the Policy Statement, they anticipate that the information submitted to them will be similar in content, if not in form. They contemplate that regulated entities will organize their information collection around the categories in the Joint Standards. The Agencies also expect that the information they receive will help achieve the purpose of the collection, which is to allow the Agencies to identify trends in the financial services industry

regarding diversity and inclusion in employment and contracting and to identify leading diversity policies and practices.

## **2. Specific Collection Instrument**

As mentioned above, NCUA developed a draft, proposed voluntary checklist as an option for a collection tool for federally insured credit unions.

Three commenters requested that the Agencies be more specific about the information collection. One commenter asked the Agencies to send questions that “comport with how its member firms operate” and that the information collection request allow entities to submit qualitative information to add context to quantitative submissions. Another commenter asked the Agencies to provide a “robust” example or template of the information the entities should submit. This commenter also recommended that the Agencies provide a non-exhaustive list of materials that respondents can use to compare against what they are planning to submit. The third commenter recommended that the Agencies develop a standardized collection instrument. This commenter noted that it had recommended standardized survey questions when it commented on the proposed Policy Statement. The commenter urged the Agencies to adopt a thorough framework for collecting specific and consistent data.

The Agencies appreciate the collection instrument recommendations and the offers to assist in developing an instrument. At this time, however, the Agencies have not developed a joint information collection instrument. The Agencies believe that the Policy Statement encourages regulated entities to provide information regarding their self-assessments in a manner reflective of the Joint Standards and that any such information received will be useful.

## **3. Assurance of Confidentiality**

The Joint Standards addressing Self-Assessments provide that the entities submitting

information may designate such information as confidential commercial information, where appropriate. Three commenters expressed concerns about whether the information submitted would remain confidential. One commenter indicated that its members are concerned that information submitted to their primary federal financial regulator might be provided, without context, to other regulators or to the U.S. Congress, leading to confusion or to the disclosure of competitive information. This commenter asked the Agencies to provide a clearer confidentiality policy and clarify that submissions will remain confidential unless the submitting entity expressly waives confidentiality. Similarly, another commenter stated that its members are concerned that third parties may have access to the information submitted and could use this information to the submitter's disadvantage. This commenter requested additional clarification regarding how the Agencies will use and protect submitted information, as well as a written statement providing assurance that the Agencies will not share the information with third parties.

The remaining commenter expressed concern that designating information as confidential will not guarantee protection from disclosure. The commenter observed that, if the public requests information under the Freedom of Information Act (FOIA), the regulated entity will be notified of the request and provided an opportunity to argue against disclosure. In the event that the regulated entity's argument does not prevail, the voluntarily submitted information could be released to the public.

Two of these commenters recommended that regulated entities be allowed to submit information anonymously. One commenter said its members might support the use of a third-party vendor that could capture and potentially anonymize submissions as a way to minimize information collection burden. The other commenter asserted that giving respondents the

option to submit information anonymously would enhance the quality, utility, and clarity of the information, minimize burden, and address confidentiality concerns. This commenter also recommended that the Agencies allow submitters to classify themselves into general categories, such as by approximate asset size, number of employees, and geographic location.

The Agencies understand that regulated entities want assurances that the Agencies will treat the submitted information as confidential and will not disclose the information unless the submitter expressly waives confidentiality. To the extent that a submission includes confidential information, the Agencies will keep such information confidential to the extent allowed by law. The Agencies advise regulated entities submitting private information to follow their primary federal financial regulator's FOIA regulations with respect to designating information as confidential or seeking confidential treatment.

Finally, with respect to anonymity, the Agencies are concerned that anonymous submissions would be less useful than submissions in which the submitting entity is identified. As indicated in the Policy Statement, the OMWI Directors plan to reach out to regulated entities to discuss diversity and inclusion practices and methods of assessment, and these contacts will be more informative for both the Agencies and the entities if the Agencies know which submission came from which entity. However, the Agencies will reassess this matter over time.

#### **4. Accuracy of Burden Estimate**

The Agencies estimated that, annually, it would take an entity 12 burden hours, on average, to publish information pertaining to its diversity policies and practices on its website and to retrieve and submit self-assessment information to its primary federal financial regulator. One commenter stated that the Agencies grossly underestimated the time it would

take to collect, categorize, and submit this information. The commenter asserted that retrieving diversity data is a time-consuming and labor-intensive task, particularly for entities with hundreds or thousands of employees located throughout U.S. and the world. In addition, the commenter maintained that an entity's submission would have to undergo a time-consuming review by legal counsel and others to assure accuracy and clarity before the entity could submit the information.

The Agencies note that the commenter did not provide an alternative estimate or formula for calculating this burden and that 12 hours is an estimated average. In the absence of more specific information, the Agencies do not have a basis for changing their burden estimate at this time. If, however, future feedback indicates that the current estimate needs further refinement, the Agencies will consider adjusting their estimates accordingly.

## **5. Estimate of Start-Up Costs**

One commenter asserted that it would take substantial IT, legal, and operational resources to put diversity data into a format appropriate for submission to a regulator. The commenter said that it could not provide an exact estimate of capital or start-up costs for submitting this information until an actual information request was available. In response, the Agencies note that there are no start-up costs associated with the collection of information contained in the Joint Standards. Furthermore, any costs incurred by a regulated entity, aside from the 12 burden hours discussed above to publish information pertaining to its diversity policies and practices on its website and to retrieve and submit self-assessment information to its primary federal financial regulator, will be incurred in the normal course of its business activities.

Written comments continue to be invited on:

(a) The necessity of the collection of information for the proper performance of the Agencies' functions, including whether the information will have practical utility;

(b) The accuracy of the Agencies' estimate of the information collection burden, including the validity of the methods and the assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information proposed to be collected;

(d) Ways to minimize the information collection burden on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The Agencies encourage interested parties to submit comments in response to these questions. Comments submitted in response to this notice will be shared among the Agencies. All comments will become a matter of public record.

## **BY NATIONAL CREDIT UNION ADMINISTRATION**

Dated: November 18, 2015.

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Gerard Poliquin

Secretary of the Board

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